

United Kingdom Internal Market Bill

MARSHALLED LIST OF MOTIONS AND AMENDMENTS TO BE MOVED ON CONSIDERATION OF COMMONS REASONS AND AMENDMENTS

[The page and line numbers refer to HL Bill 135, the bill as first printed for the Lords]

MOTION A

LORDS AMENDMENTS 1, 19 AND 34

After Clause 1

1 Insert the following new Clause—

“Common frameworks process

- (1) The United Kingdom market access principles shall not apply to any statutory provision or requirement that gives effect to a decision to diverge from harmonised rules that has been agreed through the common frameworks process.
- (2) No regulations may be made by a Minister of the Crown with regard to a matter that is under consideration under the common frameworks process while that process in relation to that matter is still in progress.
- (3) The “common frameworks process” is a means, established by the Joint Ministerial Committee on European Negotiations, by which a measure of regulatory consistency to enable a functioning internal market within the United Kingdom may be mutually agreed between the United Kingdom and devolved governments.”

After Clause 18

19 Insert the following new Clause—

“Common frameworks process

- (1) The mutual recognition of authorisation requirements shall not apply to any regulatory requirement that gives effect to a decision to diverge from harmonised requirements that has been agreed through the common frameworks process.
- (2) No regulations may be made by a Minister of the Crown with regard to a matter that is under consideration under the common frameworks process while that process in relation to that matter is still in progress.”

Clause 25

34 Page 19, line 13, at end insert—

“() Section 22(2) does not apply if the provision has been agreed through the common frameworks process.”

COMMONS REASON

The Commons disagree to Lords Amendments 1, 19 and 34 for the following Reason —

1A *Because they will create legal uncertainty, which would be disruptive to business.*

LORDS NON-INSISTENCE AND AMENDMENTS IN LIEU

The Lords do not insist on their Amendments 1, 19 and 34 to which the Commons have disagreed for their Reason 1A and do propose Amendments 1B, 1C and 1D in lieu —

After Clause 1

1B Insert the following new Clause—

“Common frameworks process

- (1) The United Kingdom market access principles shall not apply to any statutory provision or requirement that gives effect to a decision to diverge from harmonised rules that has been agreed through the common frameworks process and states that its purpose is to give effect to that agreement.
- (2) No regulations may be made by a Minister of the Crown with regard to a matter that is under consideration under the common frameworks process while that process in relation to that matter is still in progress.
- (3) The common frameworks process is a means, established by the Joint Committee on European Negotiations, by which a measure of regulatory consistency to enable a functioning internal market within the United Kingdom may be mutually agreed between the United Kingdom and the devolved governments.”

After Clause 18

1C Insert the following new Clause—

“Common frameworks process

- (1) The mutual recognition of authorisation requirements shall not apply to any regulatory requirement that gives effect to a decision to diverge from harmonised rules that has been agreed through the common frameworks process and states that its purpose is to give effect to that agreement.
- (2) No regulations may be made by a Minister of the Crown with regard to a matter that is under consideration under the common frameworks process while that process in relation to that matter is still in progress.”

Clause 25

1D Page 19, line 13, at end insert—

- “() Section 22(2) does not apply if the provision has been agreed through the common frameworks process and it states that its purpose is to give effect to that agreement.”

COMMONS REASON

The Commons disagree to Lords Amendments 1B, 1C and 1D for the following Reason —

1E *Because the Lords Amendments will create legal uncertainty, which would be disruptive to business.*

A **Lord Callanan to move, That this House do not insist on its Amendments 1B, 1C and 1D to which the Commons have disagreed for their Reason 1E.**

A1 **Lord Hope of Craighead to move, as an amendment to Motion A, at end insert “but do propose Amendments 1F, 1G, 1H, 1J, 1K and 1L in lieu —**

Clause 10

1F Page 7, line 23, at end insert—

- “() The Secretary of State must by regulations under subsection (2) exclude the application of the United Kingdom market access principles to a statutory provision or requirement that gives effect to a decision to diverge from harmonised rules that has been agreed through the common frameworks process.”

Clause 15

1G Page 9, line 27, at end insert—

- “() “Common frameworks process” means the process, established by the Joint Committee on European Negotiations, by which a measure of regulatory consistency to enable a functioning internal market within the United Kingdom may be mutually agreed between the United Kingdom and the devolved governments.”

Clause 17**1H** Page 12, line 42, at end insert—

“() The Secretary of State must by regulations under subsection (2) add the services referred to in a statutory provision or requirement that gives effect to a decision to diverge from harmonised rules that has been agreed through the common frameworks process to the authorisation requirements in Part 3 of Schedule 2 or the list of regulatory requirements, as the case may be, to which section 18 (mutual recognition) or sections 19 and 20 (non-discrimination) do not apply.”

Clause 21**1J** Page 14, line 35, at end insert—

“common frameworks process” means the process, established by the Joint Committee on European Negotiations, by which a measure of regulatory consistency to enable a functioning internal market within the United Kingdom may be mutually agreed between the United Kingdom and the devolved governments;”

Clause 25**1K** Page 19, line 24, at end insert—

“() The Secretary of State must by regulations subject to the affirmative resolution procedure exclude the application of section 22(2) to a provision which has been agreed through the common frameworks process.”

Clause 27**1L** Page 21, line 19, at end insert—

“common frameworks process” means the process, established by the Joint Committee on European Negotiations, by which a measure of regulatory consistency to enable a functioning internal market within the United Kingdom may be mutually agreed between the United Kingdom and the devolved governments;”

MOTION B**LORDS AMENDMENTS 12, 13 AND 56****Clause 10****12** Leave out Clause 10 and insert the following new Clause—**“Exclusions from market access principles: public interest derogations**

- (1) The United Kingdom market access principles do not apply to, and sections 2(3) and 5(3) do not affect the operation of, any requirements which—
 - (a) pursue a legitimate aim,
 - (b) are a proportionate means of achieving that aim, and
 - (c) are not a disguised restriction on trade.

- (2) A requirement is considered to pursue a legitimate aim if it makes a contribution to the achievement of—
- (a) environmental standards and protection,
 - (b) animal welfare,
 - (c) consumer standards, including digital and artificial intelligence privacy rights,
 - (d) employment rights and protections,
 - (e) health and life of humans, animals or plants,
 - (f) cultural expression,
 - (g) regional socio-cultural characteristics, or
 - (h) equality entitlements, rights and protections.
- (3) A requirement is considered disproportionate if the legitimate aim being pursued in the destination part of the United Kingdom is already achieved to the same or higher extent by requirements in the originating part of the United Kingdom.”

Clause 11

- 13 Page 8, line 9, leave out subsections (6) and (7)

Schedule 1

- 56 Leave out Schedule 1

COMMONS REASON

The Commons disagree to Lords Amendments 8, 9, 12, 13, 17, 30 and 56 for the following Reason –

- 8A *Because the omission of Schedule 1 by Lords Amendment No. 56 in consequence of replacing clause 10 with the new clause proposed by Lords Amendment No. 12 and the omission of powers to amend provisions of Parts 1 and 2 (including Schedules 1 and 2) by Lords Amendments Nos. 8, 9, 12, 17 and 30, would result in the Secretary of State being unable to respond quickly to the changing needs of the UK internal market.*

LORDS NON-INSISTENCE, AMENDMENTS IN LIEU, INSISTENCE AND REASON

The Lords do not insist on their Amendments 8, 9, 10, 11, 12, 15, 16, 17, 18, 30, 31, 32 and 33 to which the Commons have disagreed for their Reasons 8A, 10A and 15A, do propose Amendments 8B to 8D and 8F to 8K in lieu, do propose Amendment 8L in lieu of the words restored to the Bill by the Commons disagreement to Amendment 12 and do insist on their Amendments 13 and 56 for Reason 15B –

Clause 10

- 8L Leave out Clause 10 and insert the following new Clause –

“Exclusions from market access principles: public interest derogations

- (1) The United Kingdom market access principles do not apply to, and sections 2(3) and 5(3) do not affect the operation of, any requirements which—
- (a) pursue a legitimate aim,
 - (b) are a proportionate means of achieving that aim, and

- (c) are not a disguised restriction on trade.
- (2) A requirement is considered to pursue a legitimate aim if it makes a contribution to the achievement of—
 - (a) environmental standards and protection,
 - (b) animal welfare,
 - (c) consumer standards, including digital and artificial intelligence privacy rights,
 - (d) employment rights and protections,
 - (e) health and life of humans, animals or plants,
 - (f) protection of public health, or
 - (g) equality entitlements, rights and protections.
- (3) A requirement is considered disproportionate if the legitimate aim being pursued in the destination part of the United Kingdom is already achieved to the same or higher extent by requirements in the originating part of the United Kingdom.”

15B *Because the Lords wish the Commons to consider the matter again.*

COMMONS DISAGREEMENT, INSISTENCE AND AMENDMENT IN LIEU

The Commons disagree to Lords Amendment 8L, insist on their disagreement to Lords Amendments 13 and 56, and propose the following Amendment in lieu of Lords Amendments 8L, 13 and 56 –

Clause 10

15C Page 7, line 25, at end insert –

- “(4) Before making regulations under subsection (2), the Secretary of State must seek the consent of the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland.
- (5) If consent to the making of the regulations is not given by any of those authorities within the period of one month beginning with the day on which it is sought from that authority, the Secretary of State may make the regulations without that consent.
- (6) If regulations are made in reliance on subsection (5), the Secretary of State must publish a statement explaining why the Secretary of State decided to make the regulations without the consent of the authority or authorities concerned.”

B **Lord Callanan to move, That this House do not insist on its Amendment 8L to which the Commons have disagreed, do not insist on its insistence on its Amendments 13 and 56 to which the Commons have insisted on their disagreement, and do agree with the Commons in their Amendment 15C.**

B1 **Lord Stevenson of Balmacara to move, as an amendment to Motion B, at end insert “and do propose Amendment 8M as an amendment to the words restored to the Bill by non-insistence on Amendments 8L, 13 and 56 –**

Schedule 1

8M Page 48, line 47, at end insert—

- “5A (1) The United Kingdom market access principles do not apply to, and sections 2(3) and 5(3) do not affect the operation of, any requirements which—
- (a) make a contribution to the achievement of—
 - (i) environmental standards and protection, or
 - (ii) protection of public health,
 - (b) are a proportionate means of achieving that aim, and
 - (c) are not a disguised restriction on trade.
- (2) For the purposes of subparagraph (1)(b), a requirement is considered disproportionate if the aim being pursued in the destination part of the United Kingdom is already achieved to the same or a higher extent by requirements in the originating part of the United Kingdom.”

MOTION C

LORDS AMENDMENTS 14 AND 52 TO 54

Clause 11

14 Page 8, leave out line 17 and insert “the European Union (Withdrawal) Act 2018”

Clause 52

52 Page 43, line 13, leave out subsection (1) and insert—

- “(1) Section 11 ceases to have effect when Articles 5 to 10 of the Northern Ireland Protocol cease to apply.”

53 Page 43, line 18, leave out “except the amendment made by subsection (3)”

54 Page 43, line 24, leave out subsection (3)

COMMONS REASON

The Commons disagree to Lords Amendments 14 and 52 to 55 for the following Reason –

14A *Because they were consequential upon Lords Amendments Nos. 42 to 47 and so the changes they made are no longer needed as a result of the Commons disagreement to Lords Amendments Nos. 42 to 47.*

LORDS INSISTENCE AND REASON

The Lords insist on their Amendments 14 and 52 to 55 for the following Reason –

14B *Because the Lords wish the Commons to consider the matter again.*

COMMONS INSISTENCE AND REASON

The Commons insist on their disagreement to Lords Amendments 14 and 52 to 54 for the following Reason –

14C *Because the Lords Amendments (together with Lords Amendment 55 which has been agreed by both Houses) were only made in consequence of the omission of Part 5 by Lords Amendments 42 to 47 and so have become unnecessary following the Lords non-insistence on Lords Amendments 42, 43 and 46.*

C **Lord Callanan to move, That this House do not insist on its insistence on its Amendments 14, 52, 53 and 54 to which the Commons have insisted on their disagreement for their Reason 14C.**

MOTION D

LORDS AMENDMENT 45

Clause 45

45 Leave out Clause 45

COMMONS REASON

The Commons disagree to Lords Amendment 45 for the following Reason –

45A *Because it is necessary for the Secretary of State to have the power to ensure there is no confusion or ambiguity in UK law about the interpretation of Article 10 of the Northern Ireland Protocol.*

LORDS INSISTENCE AND REASON

The Lords insist on their Amendment 45 for the following Reason –

45B *Because the Lords wish the Commons to consider the matter again.*

COMMONS NON-INSISTENCE AND AMENDMENT INSTEAD OF THE WORDS LEFT OUT OF THE BILL

The Commons do not insist on their disagreement to Lords Amendment 45, and propose the following Amendment instead of the words left out by the Lords Amendment –

After Clause 43

45C Insert the following new Clause –

“43A Guidance on Article 10 of the Northern Ireland Protocol

- (1) The Secretary of State must publish guidance on the practical application of Article 10 of the Northern Ireland Protocol (State aid).
- (2) For that purpose Article 10 is to be read in the light of –
 - (a) any relevant decision or recommendation of the Joint Committee, and
 - (b) any relevant declaration that is made in the Joint Committee by either party, of which the other party takes note.
- (3) The guidance must be published before the end of the period of one month beginning with the day on which this section comes into force.

- (4) A person with public functions relating to the implementation of Article 10 (including functions involving the provision of financial assistance or other subsidies) must have regard to the guidance when exercising such functions.
- (5) The Secretary of State may –
 - (a) revise or replace the guidance;
 - (b) if satisfied it is no longer necessary, withdraw the guidance.
- (6) In this section “Joint Committee” means the committee established by Article 164(1) of the EU withdrawal agreement.”

D Lord Callanan to move, That this House do agree with the Commons in their Amendment 45C.

MOTION E

LORDS AMENDMENT 47

Clause 47

47 Leave out Clause 47

COMMONS REASON

The Commons disagree to Lords Amendment 47 for the following Reason –

47A *Because the Commons consider it necessary, in order to avoid confusion in domestic law about clauses 44 and 45 and regulations made under them and provide clarity for courts, businesses, and public bodies, for those clauses and regulations to have effect notwithstanding possible inconsistency or incompatibility with any relevant national or international law.*

LORDS INSISTENCE AND REASON

The Lords insist on their Amendment 47 for the following Reason –

47B *Because the Lords wish the Commons to consider the matter again.*

COMMONS NON-INSISTENCE AND AMENDMENT CONSEQUENTIAL UPON THE LORDS AMENDMENT

The Commons do not insist on their disagreement to Lords Amendment 47, and propose the following Amendment to the Bill consequential upon the Lords Amendment –

Clause 43

47C Page 35, line 3, leave out paragraph (b)

E Lord Callanan to move, That this House do agree with the Commons in their Amendment 47C.

MOTION F

LORDS AMENDMENTS 48 AND 49

Clause 48

48 Leave out Clause 48

Clause 49

49 Leave out Clause 49

COMMONS REASON

The Commons disagree to Lords Amendments 48 and 49 for the following Reason –

48A *Because they would alter financial arrangements made by the Commons, and the Commons do not offer any further Reason, trusting that this Reason may be deemed sufficient.*

LORDS NON-INSISTENCE AND AMENDMENTS TO WORDS RESTORED

The Lords do not insist on their Amendments 48 and 49 to which the Commons have disagreed for their Reason 48A and do propose Amendments 48B and 48C to the words restored to the Bill by the Commons disagreement to Amendment 48 –

Clause 48

48B Page 40, line 41, at end insert –

“(1A) The powers in subsection (1) may only be exercised –

- (a) after consultation with the relevant authority on the principles under which financial assistance may be provided by a Minister of the Crown;
- (b) after publication of such principles; and
- (c) with the consent of the relevant authority where the financial assistance is assistance that could be given by a relevant authority.”

48C Page 41, line 10, at end insert –

““relevant authority” means the Welsh Ministers in respect of Wales, the Scottish Ministers in respect of Scotland, and the Northern Ireland Executive in respect of Northern Ireland.”

COMMONS REASON

The Commons disagree to Lords Amendments 48B and 48C for the following Reason –

48D *Because the Lords Amendments would alter financial arrangements made by the Commons, and the Commons do not offer any further Reason, trusting that this Reason may be deemed sufficient.*

F **Lord Callanan to move, That this House do not insist on its Amendments 48B and 48C to which the Commons have disagreed for their Reason 48D.**

F1 **Lord Thomas of Cwmgiedd to move, as an amendment to Motion F, at end insert “and do propose Amendments 48E and 48F in lieu –**

Clause 48

48E Page 40, line 41, at end insert—

- “(1A) The powers in subsection (1) may only be exercised—
- (a) after consultation with the relevant authority on the principles under which financial assistance may be provided by a Minister of the Crown;
 - (b) after publication of such principles; and
 - (c) after considering the advice of persons jointly appointed by the Minister of the Crown and the relevant authority for each of Wales, Scotland and Northern Ireland as to the way in which, applying the principles, the allocation of financial assistance respectively to Wales, Scotland and Northern Ireland which could have been given by a relevant authority should be provided.”

48F Page 41, line 10, at end insert—

““relevant authority” means the Welsh Ministers in respect of Wales, the Scottish Ministers in respect of Scotland, and the Northern Ireland Executive in respect of Northern Ireland.””

MOTION G

LORDS AMENDMENTS 50, 57 AND 61

After Clause 49

50 Insert the following new Clause—

“State aid and the Office for the Internal Market

- (1) Within the period of six months beginning with the day on which section 30 comes into force, and within the existing budget, the Secretary of State must by regulations establish the Office for the Internal Market (“the OIM”) as independent of the CMA.
- (2) The Secretary of State must consult and seek the consent of Scottish Ministers, the Welsh Ministers, and the Department for the Economy in Northern Ireland on appointments to the OIM.
- (3) Following public consultation about the United Kingdom’s state aid provisions and with the consent of the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland the Secretary of State may by regulations make the OIM the competent body for—
 - (a) investigating harmful and distortive subsidies and subsidy races made by any administration within the United Kingdom and relating to harm in the United Kingdom;
 - (b) recommending to the Secretary of State and the Devolved Administrations changes to the test for a harmful subsidy, remedies, the scope of exemptions and time limits on approvals;
 - (c) recommending changes in its powers and functions.
- (4) After two years and before three years, beginning with the day on which section 30 comes into force, there shall be a review of the competences of the OIM.

- (5) Regulations under this section are subject to the affirmative resolution procedure.”

COMMONS REASON

The Commons disagree to Lords Amendment 50 for the following Reason –

- 50A** *Because it would involve a charge on the public funds and the Commons do not offer any further Reason, trusting that this Reason may be deemed sufficient.*

Schedule 3

- 57** Page 54, line 8, at end insert –

“(2A) After sub-paragraph (1)(b) insert –

“(c) one person appointed to membership of the CMA Board by each of –

- (i) the Scottish Ministers,
- (ii) the Welsh Ministers, and
- (iii) the Department for the Economy in Northern Ireland.””

- 61** Page 55, line 3, at end insert –

“(2A) After sub-paragraph (2) insert –

“(2A) Sub-paragraph (2) applies to a member of the CMA Board appointed under paragraph 1(1)(c) as if the reference to the Secretary of State were a reference to whichever of the Scottish Ministers, the Welsh Ministers or the Department for the Economy in Northern Ireland appointed the person.””

COMMONS REASON

The Commons disagree to Lords Amendments 57 and 61 for the following Reason –

- 57A** *Because the existing functions of the Competition and Markets Authority and the functions under Part 4 need to be kept separate and it is inappropriate for the devolved authorities to appoint members of the Board of that Authority.*

LORDS NON-INSISTENCE AND AMENDMENTS IN LIEU

The Lords do not insist on their Amendments 50, 57 and 61 to which the Commons have disagreed for their Reasons 50A and 57A, but do propose Amendments 50B and 50C in lieu –

Clause 50

- 50C** Page 41, line 27, at beginning insert –

“(A1) Subsections (1), (2) and (3) shall take effect when the Welsh Ministers, the Scottish Ministers and the Northern Ireland Executive have agreed with the Secretary of State a common framework applicable to the United Kingdom to regulate the provision of subsidies by a public authority to persons supplying goods or services in the course of a business or, if agreement cannot be reached, three years after the passing of this Act.”

COMMONS REASON

The Commons disagree to Lords Amendment 50C for the following Reason –

50D *Because, while the Commons agree to Lords Amendment 50B, it is not appropriate to link the operation of the reservation proposed by Clause 50 to Common Frameworks.*

G **Lord Callanan to move, That this House do not insist on its Amendment 50C to which the Commons have disagreed for their Reason 50D.**

G1 **Baroness Finlay of Llandaff to move, as an amendment to Motion G, at end insert “but do propose Amendment 50E in lieu –**

Clause 50

50E Page 41, line 27, at beginning insert –

“(A1) Subsections (1), (2) and (3) shall take effect when the Welsh Ministers, the Scottish Ministers and the Northern Ireland Executive have agreed with the Secretary of State a common framework applicable to the United Kingdom to regulate the provision of subsidies by a public authority to persons supplying goods or services in the course of a business or, if agreement cannot be reached, 18 months after the passing of this Act.””

G2 **Baroness Bowles of Berkhamsted to move, as an amendment to Motion G, at end insert “but do propose Amendment 50F in lieu –**

After Clause 50

50F Insert the following new Clause –

“State aid

The Secretary of State may not, by exercise of powers under this or any other enactment, make any changes to the test for a harmful subsidy, remedies, the scope of exemptions and conditions or time limits on approvals.””

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AMENDMENTS

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